



**Arizona State Board of Pharmacy**  
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**THE ARIZONA STATE BOARD OF PHARMACY  
HELD A REGULAR MEETING NOVEMBER 14 AND NOVEMBER 15, 2007  
AT THE ARIZONA STATE BOARD OF PHARMACY OFFICE  
PHOENIX, AZ**

**MINUTES FOR REGULAR MEETING**

**AGENDA ITEM 1 – Call to Order – November 14, 2007**

President Van Hassel convened the meeting at 9:08 A.M. and welcomed the audience to the meeting.

The following Board Members were present: President Tom Van Hassel, Vice President Zina Berry, Chuck Dutcher, Steven Haiber, Louanne Honeyestewa, Dennis McAllister, Paul Sypherd, and Ridge Smidt. The following staff members were present: Compliance Officers Rich Cieslinski, Chuck Cordell, Larry Dick, Ed Hunter, Sandra Sutcliffe, and Dean Wright, Drug Inspector Heather Lathim, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Elizabeth Campbell.

Ms. Frush explained that law continuing education would be offered for attendance at the meeting.

**AGENDA ITEM 2 – Declaration of Conflicts of Interest**

Due to a conflict of interest, Mr. Haiber recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 11, Schedule F, Complaint #3395, Complaint #3398, Complaint #3406, and Complaint #3417.

Due to a conflict of interest, Dr. Berry recused herself from participating in the review, discussion, and proposed action concerning Agenda Item 11, Schedule F, Complaint #3405, and Complaint #3436.

Due to a conflict of interest, Dr. Smidt recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 7, Schedule C, Item #7.

**AGENDA ITEM 3 – Approval of Minutes**

Following a review of the minutes and an opportunity for questions and **on motion by Mr. Dutcher and Dr. Berry**, the minutes of the Regular Meeting held on September 11 and 12, 2007 were unanimously approved by the Board Members.

**AGENDA ITEM 4 – Consideration of Proposed Consent Agreement for Lisa Hunter – Case 08-0003-PHR**

President Van Hassel stated that Ms. Hunter is requesting that the Board consider a proposed consent order to resolve her case.

Ms. Hunter was present. Brent Peugnet, Attorney for Ms. Hunter was present.

Elizabeth Campbell, Assistant Attorney General for the State was present. Laurie Woodall was present from the Solicitor General's Office to serve as Counsel for the Board.

Mr. Van Hassel opened the discussion by asking Ms. Hunter if she would like to address the Board.

Mr. Peugnet stated that he would advocate that the Board accept the proposed Consent Agreement. Mr. Peugnet stated that Ms. Hunter has agreed to surrender her license.

Ms. Hunter read a brief statement concerning her case. Ms. Hunter stated that she has not worked as a pharmacist since the incident. Ms. Hunter stated that she suffers from a physical disability. Ms. Hunter stated that in the next year she plans to work on methods to improve her disability.

Mr. Van Hassel asked Ms. Campbell if she has any recommendations for the Board.

Ms. Campbell stated that she would recommend that the Board accept the Consent Agreement for the Surrender of Ms. Hunter's Pharmacist license.

Mr. McAllister stated that he felt that the consent was a reasonable resolution to remove a practitioner that is practicing at an unsafe level. Mr. McAllister stated that he felt that a competency assessment must be completed prior to Ms. Hunter's return to practice. Mr. McAllister stated that he felt that Ms. Hunter should pass the NAPLEX and MPJE exams prior to re-entry to practice.

Mr. Dutcher stated that the details of re-entry could be debated today or a year from now when Ms. Hunter requests to return to practice.

Dr. Smidt stated that he felt that the reinstatement terms could be discussed in a year when Ms. Hunter returns to practice.

Dr. Berry asked if the consent order presented to the Board could be amended.

Mr. McAllister stated that this is different than the majority of cases which involve drug diversion. Mr. McAllister stated that it is a competency issue and could be addressed in a year.

Ms. Campbell stated that the consent could be amended and the Board could instruct her to amend the agreement per their instructions.

Mr. Peugnet stated that his client would agree to the terms discussed. Mr. Peugnet asked if the director could sign the consent agreement once it is modified in order not to delay the process any longer.

Ms. Woodall asked Ms. Campbell if the consent order would be modified and presented to the executive director for signing.

Ms. Campbell stated that she would amend the consent agreement and add the language that any reinstatement or re-licensure would be conditioned upon Ms. Hunter's successful completion of the NAPLEX and MPJE exam.

Mr. Haiber asked if the Board accepted this consent agreement would it block the Board from adding any other requirements upon Ms. Hunter's request to have her license reinstated.

Ms. Campbell replied no.

Mr. Peugnet stated that his client would agree to the modification of the consent agreement.

**On motion by Dr. Berry and Mr. Dutcher**, the Board unanimously agreed to accept the consent agreement for Lisa Hunter with the amended language, which would require Ms. Hunter to successfully complete the NAPLEX and MPJE exam prior to reinstatement or re-licensure. Once modified the consent agreement would be given to the Executive Director to sign. A Roll Call vote was taken. (Mr. McAllister – aye, Ms. Honeyestewa – aye, Dr. Smidt – aye, Mr. Dutcher – aye, Mr. Haiber – aye, Dr. Sypherd – aye, Dr. Berry – aye, and Mr. Van Hassel – aye.)

## **AGENDA ITEM 5 - Hearings**

The Hearing for Lisa Hunter was cancelled because the Board accepted a Consent Agreement for Lisa Hunter for the voluntary surrender of her pharmacist license.

## **AGENDA ITEM 6 – Permits and Licenses**

President Van Hassel stated that all permits were in order for resident pharmacies and representatives were present to answer questions from Board members.

### **Medco Health Solutions of Scottsdale**

Mary Ryan, Vice President of Corporate Pharmacy Regulatory Affairs for Medco and Roger Krohm, Pharmacist In Charge were present to answer Board Member's questions.

President Van Hassel opened the discussion by asking the representatives to discuss their business.

Ms. Ryan stated that they would be opening a limited service pharmacy. Ms. Ryan stated that this would not be a dispensing pharmacy.

Ms. Ryan stated that this would be an office setting and the pharmacists employed would be working from their homes.

Mr. Dutcher asked Ms. Ryan to describe what kind of work the pharmacist would be doing at their homes. Ms. Ryan stated that the pharmacists would be verifying prescriptions, counseling patients, and other non-dispensing functions.

Ms. Ryan stated that they anticipate that 20 pharmacists would eventually be employed at this site, but would be working from their homes. Ms. Ryan stated that initially they plan to hire 10 pharmacists.

Mr. Wand asked Ms. Ryan if they are requesting an exception for equipment normally required for limited service dispensing pharmacies. Ms. Ryan replied yes.

**On motion by Dr. Berry and Dr. Smidt**, the Board unanimously approved the application for Medco Health Solutions of Scottsdale. The Board also approved their request for an exception for equipment normally required for a limited service dispensing pharmacy.

### **Humana Right Source Pharmacy**

Steven Lerch, Pharmacist In Charge, was present to answer Board Member's questions.

President Van Hassel opened the discussion by asking Mr. Lerch to discuss the company's new proposed pharmacy.

Mr. Lerch stated that the company has applied for a limited service pharmacy permit to open a closed door shared service pharmacy.

Mr. Lerch stated that the pharmacy would employ about 20 pharmacists. The pharmacists would be responsible for performing prescription verifications and patient counseling. Mr. Lerch stated that no dispensing would be done at this site.

Dr. Berry asked if only pharmacists would be employed at this site. Mr. Lerch stated that only pharmacists would be employed at this site.

Mr. Wand asked Mr. Lerch if they are requesting an exception for equipment normally required for limited service dispensing pharmacies. Mr. Lerch replied yes.

**On motion by Mr. Haiber and Dr. Sypherd**, the Board unanimously approved the application for Humana Right Source Pharmacy. The Board also approved their request for an exception for equipment normally required for a limited service dispensing pharmacy.

At the conclusion of questions from the Board Members and **on motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the resident permits listed below. The application for MyVetSentMe was tabled until the Board Member's meet with the owners. All approvals are subject to final inspection by a Board Compliance Officer where appropriate.

## RESIDENT (In Arizona)

Pharmacy	Location	Owner
Summit Healthcare Association	2200 E. Show Low Lake Rd., Show Low, AZ 85901	Summit Healthcare Association
Walgreens Pharmacy #09472	2707 W. Carefree Hwy., Phoenix, AZ 85085	Walgreen Arizona Drug Co.
MedOne Healthcare, LLC	444 W. 21 <sup>st</sup> St., Suite 103, Tempe, AZ 85282 (O)	MedOne Healthcare, LLC
Tempe St. Luke's Hospital	1500 S. Mill Ave., Tempe, AZ 85281 (O)	St. Luke's Medical Center LP.
Safeway Pharmacy #2799	2845 N. Vistancia Blvd., Peoria, AZ 85383	Safeway Inc.
UMC at Orange Grove	1891 W. Orange Grove, Tucson, AZ 85704 (O)	University Medical Center
CVS/Pharmacy #7862	17050 N. Thompson Peak Pkwy., Scottsdale, AZ 85255	German Dobson CVS LLC
Walgreens Pharmacy #10260	3230 E. Chandler Heights, Gilbert, AZ 85297	Walgreen Arizona Drug Co.
Medco Health Solutions of Scottsdale	14811 N. Kierland Blvd., Ste 600, Rm 109, Scottsdale, AZ 85254	Medco at Home, LLC
Wal-Mart Neighborhood Market Pharmacy #4603	5500 E. 22 <sup>nd</sup> St., Tucson, AZ 85711	Wal-Mart Stores
CVS/Pharmacy #3383	7550 S. 19 <sup>th</sup> Ave., Phoenix, AZ 85041	Arizona CVS Stores, LLC
Critical Care Systems	4645 Ash Avenue, Ste I-6, Tempe, AZ 85282 (O)	Medco Health Solutions
Sam's Club Pharmacy 10-4829	2621 S. Market St. , Gilbert, AZ 85295	Sams' West Inc.
Wal-Mart Neighborhood Market Pharmacy #10-4233	6550 W. Happy Valley Rd., Phoenix, AZ 85085	Wal-Mart Stores, Inc.
Wal-Mart Neighborhood Market Pharmacy #10-4218	15431 W. Greenway Rd. , Surprise, AZ 85374	Wal-Mart Stores, Inc.
Wal-Mart Supercenter Pharmacy #10-4232	4747 E. Cactus Rd., Phoenix, AZ 85032	Wal-Mart Stores, Inc.
Humana RightSource Pharmacy	7333 S. Hardy Rd., Tempe, AZ 85283	Humana RightSource, Inc.

(O) = Ownership Change

## MyVetSentMe

Owner John Fain, Owner Michael Shumsky, and Pharmacist In Charge Lou Goldstein were present to answer Board Member's questions.

President Van Hassel opened the discussion by asking the representatives to discuss their business.

Mr. Fain stated that they would be opening a pharmacy that would serve veterinary patients. Mr. Fain stated that they would be promoting their pharmacy to veterinarians. Mr. Fain stated that they would only fill valid prescriptions. Mr. Fain indicated that they would not be compounding any medications.

Mr. Dutcher asked if the owners were pharmacists. Mr. Fain replied that they were not pharmacists but were aware of the rules and know that only the pharmacist can have access to the pharmacy.

Mr. Dutcher asked Mr. Fain if they were promoting their business to the pet owners or the veterinarians. Mr. Fain stated that they would be promoting their business to the veterinarians as an alternative pharmacy where their patients could have their prescriptions filled.

Mr. Wand stated that the veterinarians can give patients addresses where prescriptions could be filled and the patient selects where to have their pet's prescriptions filled.

Mr. Van Hassel asked if the owners operate a wholesale business. Mr. Fain stated that they own Associated Medical that wholesales veterinary supplies to veterinarians.

Mr. Van Hassel asked if any veterinary clinics are located in the same building. Mr. Shumsky replied no.

Dr. Smidt asked the representatives if they understand the rules and what constitutes a valid prescription. Mr. Fain replied that they are familiar with the rules.

Dr. Smidt asked if they would be managing a website that would allow a patient to request a prescription over the Internet.

Mr. Fain stated that the website would ask the patient to identify their veterinarian and what medication they need for their pet. The pharmacist would then contact the veterinarian for the prescription.

Mr. Dutcher asked if the prescriptions would be filled for patients outside of the valley.

Mr. Fain stated that they have no associations with out of state veterinarians.

**On motion by Mr. Dutcher and Dr. Sypherd**, the Board unanimously approved the application for MyVetSentMe . The Board also approved their request for an exception for equipment normally required for a limited service dispensing pharmacy.

### **Non-Resident Permits**

At the conclusion of questions from the Board Members and **on motion by Dr. Berry and Dr. Smidt**, the Board unanimously approved the non-resident permits listed below.

### **NON-RESIDENT (Out of State)**

<b>Pharmacy</b>	<b>Location</b>	<b>Owner</b>
CDS Pharmacies	9371 Cypress Lake Dr., Suite #8, Fort Myers, FL 33919	CDS Pharmacies Corp.
Amber Pharmacy	10004 S. 152 <sup>nd</sup> St., Omaha, NE 68138	Amber Enterprises
VetSource Home Delivery	17014 N.E. Sandy Blvd., Portland, OR 97320	Strategic Pharmaceutical Solutions
Express Scripts	4415 Lewis Rd., Harrisburg, PA 17111 (O)	ESI Mail Pharmacy Service, Inc.
Enclara Health	1480 Imperial Way, West Deptford, NJ 08066	Enclara Health, LLC
Independence Home Pharmacy II	1308 S. 12 <sup>th</sup> St., Murray, KY 42071	Soporex Respiratory II
Pharmacia El Amanecer	1842 S. Blue Island Ave., Chicago, IL 60608	Pharmacia El Amanecer, Inc.
Direct Meds Pharmacy	1345 Grand St., Leonia, NJ 07605	Direct Meds Inc.
Custom Compounding Pharmacy of America	3 Maple St., Kent, CT 06757	Custom Compounding Pharmacy of America, Inc.
Ridgeway Pharmacy, Ltd.	2824 US Hwy 93 N, Victor, MI 59875	Ridgeway Pharmacy, Ltd.
Walgreens Specialty Pharmacy, LLC	9775 SW Gemini Dr., Suite 1, Beaverton, OR 97008	Walgreens Specialty Pharmacy, LLC
Pharmaceutical Specialities, Inc.	4330 S. Manhattan Ave., Tampa, FL 33611	Pharmaceutical Specialities, Inc.
Green Valley Drugs	6434 S. Arville St., Las Vegas, NV 89118	Scot Silber
US Bioservices	2525 Perimeter Place Dr., #100, Nashville, TN 37214	IHS Acquisition XXX, Inc.
Corinthian Care Group	11550 IH 10 West #100, San Antonio, TX 78230	Judi McNeel, Charles McQueary

(O) = Ownership Change

### **Pharmacists, Interns, Pharmacy Technicians, and Pharmacy Technician Trainees**

President Van Hassel stated that all license requests and applications were in order.

**On motion by Mr. Dutcher and Dr. Smidt**, the Board unanimously approved the Pharmacists licenses listed on the attachments.

**On motion by Dr. Berry and Dr. Smidt**, the Board unanimously approved the Intern licenses listed on the attachments.

**On motion by Dr. Berry and Dr. Sypherd**, the Board unanimously approved the Pharmacy Technician and Pharmacy Technician Trainee applications listed on the attachments.

## **AGENDA ITEM 8 – License Applications Requiring Board Review**

### **#1 Derek Cummings**

**Derek Cummings** appeared on his own behalf to request to proceed with reciprocity.

President Van Hassel opened the discussion by asking Mr. Cummings to describe the nature of his request.

Mr. Cummings stated that he is requesting to reciprocate his pharmacist license to Arizona.

Mr. Van Hassel asked Mr. Cummings if his license was disciplined in another state. Mr. Cummings stated that his license was disciplined by the Illinois Board. Mr. Cummings stated that in 2002 he was self medicating and diverted medications. Mr. Cummings stated that he was arrested and convicted of a misdemeanor. Mr. Cummings stated that he was required to submit to random drug testing and was required to obtain counseling. Mr. Cummings stated that he completed all the requirements in July of 2005.

Mr. Van Hassel asked Mr. Cummings if his license is currently in good standing. Mr. Cummings replied yes.

Mr. Dutcher asked Mr. Cummings if he has a job in Arizona. Mr. Cummings stated that he currently works for a staffing agency and he will work for them when he moves to Arizona.

Mr. Van Hassel asked if Illinois has a pharmacist assistance program. Mr. Cummings stated that he was required to seek his own counseling and therapy independently.

**On motion by Mr. McAllister and Mr. Dutcher**, the Board unanimously approved the request by Mr. Cummings to proceed with reciprocity.

## **AGENDA ITEM 9 – Reports**

### **Executive Director Report**

Mr. Wand opened his discussion by reviewing the online renewal process. Mr. Wand stated that during the online renewal process the vendor was switched from IBM to NIC, who was awarded the new state contract.

Mr. Wand stated that initially the renewal process worked, but after the switch to the new vendor several problems were encountered.

Mr. Wand stated that individuals that renewed online were never sent the link to print their licenses.

Mr. Wand stated that IBM did a data dump and supplied the Board with a list of individuals that did not receive their licenses. Mr. Wand stated that the Compliance Staff helped print licenses and stuff envelopes to mail to the individuals that renewed online. Mr. Wand estimated that roughly 10,000 renewals were printed and mailed. Mr. Wand stated that Heather Lathim, the Drug Inspector, helped answer phones in the office during the renewal period.

Mr. Wand stated that there was also a hardware issue that prevented the staff from logging onto the secure site for processing license renewals. It was determined that the switch in the basement of the building was bad and was replaced.

Dr. Smidt asked if the Board would be able to recoup any of losses. Mr. Wand replied that he is working with GITA (Government Information Technology Agency ) in hopes of recouping some of the losses. Mr. Wand stated that he had to spend about \$8,000 that was not anticipated to mail the licenses that the individuals should have been able to print.

Mr. Wand stated that the phone lines were very busy during the renewal period. The new phone system will only allow 25 messages per line.

Mr. Wand reviewed the Budget with the Board Members. Mr. Wand stated that currently the Board is 2% to the black.

Mr. Wand explained that expenses were higher in August due to the check that was presented to the University of Arizona. Mr. Wand explained that expenses were higher in October due to the unexpected costs to mail the renewals.

Mr. Wand stated that the State is experiencing a Budget short fall. Mr. Wand stated that he received a letter from the JLBC (Joint Legislative Budget Committee) indicating that they plan to transfer fund balances to the General Fund. Mr. Wand stated that they plan to sweep 25% of the balance to the general fund.

Mr. Wand stated that he is required to respond to the JLBC concerning the transfer of the funds and the impact the transfer would have on the Board. Mr. Wand stated currently the Board does not have access to the funds. Mr. Wand stated that if any Board Members have any objections he could file an objection to having the funds transferred to the General Fund.

Mr. Wand stated that the only issue he could foresee is if the Board needed to pay any legal fees as a result of a case. Mr. Wand stated that the transfer could impact the Board if the Board needed to make any supplemental requests.

Dr. Sypherd recommended that Mr. Wand include in his reply any financial concerns that the Board would not be able to meet if the money is transferred from the agency fund.



## **Deputy Director Report**

Ms. Frush stated during the months of September and October 2007, the Compliance Staff issued letters for the following violations:

### **Controlled Substance Violations**

1. Controlled Substance Overage – (5)
2. Controlled Substance Shortage – (6)
3. Failure to Conduct Controlled Substance Inventory upon change of Pharmacist in Charge – (1)
4. Failure to Count CIII-CV on Annual Controlled Inventory – (1)

### **Documentation Violations**

1. Failure to Document Medical Conditions – (9)
2. Failure to sign daily sig log – (1)
3. Failure to document counseling – (4)
4. Failure to have signed technician statements concerning job description, policies, and procedures, and Board rules – (1)
5. Failure to have a Pharmacy Technician Training Program for Compounding – (1)

### **Pharmacy Violations**

1. Allowing technicians to work with an expired license – (1)
2. Wall Certificate not posted – (1)
3. Outdated prescription medications in the pharmacy – (3)
4. No Designated Pharmacist in Charge – (1)

### **The following areas were noted on the inspection reports for improvement:**

1. Documentation of Medical Conditions

### **Areas outside the inspection reports that may be of interest:**

1. CII prescriptions are valid for 90 days after date of issue.
2. Be sure all pharmacy personnel have current licenses.

## **Arizona Pharmacy Alliance Report**

Mark Boesen, was present to update the Board concerning the activities of the Arizona Pharmacy Alliance.

Mr. Boesen updated the Board on CE programs that were offered throughout the state. Mr. Boesen stated that a CE program was offered entitled Spanish for Pharmacist. Mr. Boesen stated law CE programs were offered at nine outlying areas.

Mr. Boesen stated that an immunization certification program was offered. Mr. Boesen stated that approximately 50 participants were certified to administer immunizations.

Mr. Boesen stated that the Pharmacy Network plans to offer a Diabetes Self Care Program. The project will be patterned after the Ashfield project. The program would be conducted as an 18 month pilot program before the program would be offered statewide.

Mr. Boesen stated that the Alliance is dealing with several regulatory issues, such as AMP reimbursements and the requirements for tamper resistant prescription pads for Medicaid prescriptions. Mr. Boesen stated that in Arizona the tamper resistant prescription pads are only required for Fee for Service Medicaid patients.

Mr. Boesen stated that the FDA is currently holding public hearings that would establish a class of medications that would be kept behind the counter and could only be sold to the patient after the pharmacist speaks with the patient.

### **AGENDA ITEM 11 - Consideration of Consumer Complaint Committee Recommendations**

The Consumer Complaint Review Committee met prior to the Board Meeting to review 13 complaints. Dr. Berry, Ms. Honeyestewa, and Dr. Sypherd served as the review committee. Board Members were encouraged to discuss issues and were encouraged to ask questions.

Due to a conflict of interest, Mr. Haiber recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 11, Schedule F, Complaint #3395, Complaint #3398, Complaint #3406, and Complaint #3417.

Due to a conflict of interest, Dr. Berry recused herself from participating in the review, discussion, and proposed action concerning Agenda Item 11, Schedule F, Complaint #3405, and Complaint #3436.

The Board Members discussed Complaint #3443. The Board Members discussed the proposed fines to be charged for each violation

The following summary represents the final decisions of the Board in each complaint:

Complaint #3391 - Authorize Executive Director to order an evaluation for the Pharmacist with an addictionologist.

**On motion by Mr. Dutcher and Dr. Sypherd**, the Board unanimously agreed to accept the recommendation of the complaint review committee for Complaint #3391.

Complaint #3392 - Dismiss

**On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously agreed to accept the recommendation of the complaint review committee for Complaint #3392.

Complaint #3395 - Dismiss

**On motion by Mr. Dutcher and Dr. Sypherd**, the Board unanimously agreed to accept the recommendation of the complaint review committee for Complaint #3395.

Complaint #3398 - Dismiss

**On motion by Mr. Dutcher and Dr. Berry**, the Board unanimously agreed to accept the recommendation of the complaint review committee for Complaint #3398.

Complaint #3405 - Dismiss

**On motion by Mr. Dutcher and Dr. Sypherd**, the Board unanimously agreed to accept the recommendation of the complaint review committee for Complaint #3405.

Complaint #3406 - Dismiss

**On motion by Mr. Dutcher and Dr. Berry**, the Board unanimously agreed to accept the recommendation of the complaint review committee for Complaint #3406.

Complaint #3417 - Dismiss

**On motion by Mr. Dutcher and Dr. Berry**, the Board unanimously agreed to accept the recommendation of the complaint review committee for Complaint #3417.

Complaint #3420 - Conference – Permit Holder with Pharmacist In Charge as witness

**On motion by Mr. Dutcher and Dr. Berry**, the Board unanimously agreed to accept the recommendation of the complaint review committee for Complaint #3420.

Complaint #3427 - Consent for PAPA contract with credit for time not employed

**On motion by Mr. Dutcher and Dr. Berry**, the Board unanimously agreed to accept the recommendation of the complaint review committee for Complaint #3427.

Complaint #3436 - Conference – Pharmacist and Two Pharmacy Technicians

**On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously agreed to accept the recommendation of the complaint review committee for Complaint #3436.

Complaint #3441 - Consent for Voluntary Surrender

**On motion by Mr. Dutcher and Dr. Berry**, the Board unanimously agreed to accept the recommendation of the complaint review committee for Complaint #3441.

Complaint #3442 - Consent for PAPA contract with credit for time not employed  
Open a new complaint against the permittee for Controlled  
Substance Accountability

**On motion by Mr. Dutcher and Dr. Berry**, the Board unanimously agreed to accept the recommendation of the complaint review committee for Complaint #3442.

Complaint #3443 - Consent agreement for fine - \$1,000 dollars for each violation listed (8) and an additional \$1,000 fine for each drug in the comfort kit that was dispensed without a valid prescription (49 kits with 6 prescription drugs in each kit).

**On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously agreed to accept the recommendation of the complaint review committee for Complaint #3443.

## **AGENDA ITEM 12 – Consent Agreements**

President Van Hassel asked Board Members if there were any questions or discussions concerning the consent agreements. Executive Director Hal Wand indicated that the consent agreements have been reviewed and approved by the Attorney General's Office and have been signed.

### **#1 James Green - Case 08-0012-PHR**

**On motion by Dr. Berry and Mr. Dutcher**, the Board unanimously agreed to accept the consent agreement as presented in the meeting book and signed by the respondent. A roll call vote was taken. (Mr. McAllister – aye, Dr. Smidt – aye, Ms. Honeyestewa – aye,

Mr. Dutcher –aye, Mr. Haiber –aye, Dr. Sypherd – aye, Dr. Berry – aye, and Mr. Van Hassel –aye.)

## **#2 Loren Dorstad - Case 08-0013-PHR**

**On motion by Dr. Berry and Mr. Haiber**, the Board unanimously agreed to accept the consent agreement as presented in the meeting book and signed by the respondent. A roll call vote was taken. (Mr. McAllister – aye, Dr. Smidt – aye, Ms. Honeyestewa – aye, Mr. Dutcher –aye, Mr. Haiber –aye, Dr. Sypherd – aye, Dr. Berry – aye, and Mr. Van Hassel –aye.)

## **#3 Angel Lin - Case 08-0014-PHR**

**On motion by Dr. Berry and Mr. Dutcher**, the Board unanimously agreed to accept the consent agreement as presented in the meeting book and signed by the respondent. A roll call vote was taken. (Mr. McAllister – aye, Dr. Smidt – aye, Ms. Honeyestewa – aye, Mr. Dutcher –aye, Mr. Haiber –aye, Dr. Sypherd – aye, Dr. Berry – aye, and Mr. Van Hassel –aye.)

## **AGENDA ITEM 13 – Pharmacy Technician Trainee Requests for Approval to Reapply for Licensure**

President Van Hassel addressed this issue. Mr. Van Hassel stated that Mr. Wand has reviewed the requests. Mr. Van Hassel stated that the pharmacy technician trainees have received a letter stating that they may only reapply for licensure as a pharmacy technician trainee one time. Mr. Van Hassel stated that during the next two years the pharmacy technician trainee must take the PTCB test and become certified if they would like to continue to work as a pharmacy technician.

**On motion by Mr. Dutcher and Dr. Berry**, the Board unanimously approved the requests of the Pharmacy Technician Trainees listed below to proceed with the reapplication process. The pharmacy technician trainee may reapply for an additional two years as a pharmacy technician trainee one time.

**Pharmacy Technician Trainees Approved to reapply for licensure as a Pharmacy Technician Trainee for an additional two years.**

- |                              |                        |
|------------------------------|------------------------|
| 1. Mirjana Elez              | 15. Thomas Brannan     |
| 2. Carolyn Bobeck            | 16. David Brown        |
| 3. Rodney Grove              | 17. Mark Kassees       |
| 4. Catina Bell               | 18. Kyle Walker        |
| 5. Mary Kathleen Beach       | 19. Gaetana Michelin   |
| 6. Angela Moreno             | 20. Jesse Padilla      |
| 7. Blaine Francis Scoles     | 21. Joni Bowman        |
| 8. Natalie Yeretina Vlahakis | 22. Kristen Sunderland |
| 9. Lawrence Solomon Garcia   | 23. Justin Lindsay     |
| 10. Paula Ann Patty-Bryant   | 24. Kevin Gill         |
| 11. Judith Irene Otenburg    | 25. O'Malley Oliveras  |
| 12. Lorenia Lopez            | 26. Cassandra Celaya   |
| 13. Teresa Ann Domenici      | 27. Thomas Thottumkal  |
| 14. Shirley Kaye Alexander   | 28. Lisa Ziemianski    |

## **AGENDA ITEM 14 – Proposed Rules and Substantive Policy Statement**

### **Substitution of Prescription Drugs Rule**

Rules Writer Dean Wright opened the discussion by stating that the Board deleted R4-23-406 that listed the drugs that could not be substituted or interchanged in a final rulemaking published effective March 7, 2002.

Mr. Wright stated that he feels that it would be prudent to bring back the list of drugs that cannot be substituted or interchanged. Mr. Wright stated that the rule would list drugs that are not to be substituted or interchanged.

Mr. Wand stated that the reason the rule was initially deleted was because the statutes indicated that in order for substitution to occur the drugs must be therapeutically equivalent and listed as such in the orange book.

Mr. Wright stated that the orange book does list medications that can be substituted and does not allow the substitution of different dosage forms.

Mr. McAllister stated that he feels it is not necessary to republish the rule.

The Board Members advised Mr. Wright not to proceed with the rulemaking process.

### **Controlled Substances Prescription Monitoring Program**

Controlled Substances Program Director/Rules Writer Dean Wright opened the discussion by stating that he has prepared a draft of the proposed rules for the Controlled Substances Prescription Monitoring Program. Mr. Wright stated that the Task Force will meet tomorrow.

Mr. Wright stated that the rules establish the registration process and how registrants can obtain information. Mr. Wright stated that the task force helps define the thresholds of the program.

Mr. Wand stated that comments from the task force could be discussed as an agenda item at the January Board Meeting.

Mr. Haiber asked if pharmacies would register. Mr. Wright stated that pharmacies would be included in the database. Mr. Wand stated that if the Board approves a new pharmacy then the pharmacy would be added to the database.

Dr. Smidt asked if anyone who registers could access prescription information. Mr. Wright stated that they must have an open complaint, open investigation, or treating the patient.

Mr. Wright stated that civil immunity is given to individuals that have the right to access the data.

The Board Members gave approval for Mr. Wright to continue with the rulemaking process.

## **Unethical Practices Rule**

Rules Writer Dean Wright opened the discussion by stating that the Board reviewed the first draft of this rule at the March 2007 Board Meeting. The Board requested that the staff research other state Board rules dealing with internet-based questionnaires. Mr. Wright stated that he has prepared a revised draft for the rule using a mixture of language from other states.

The Board Members gave Mr. Wright approval to proceed with the rulemaking process.

## **Substantive Policy Statement**

### **Substituting Albuterol HFA Inhalers for Albuterol CFC Inhalers**

Rules Writer Dean Wright opened the discussion by stating that the FDA has published final rules to amend its regulation on the use of ozone-depleting substances in medical products. The rule states that as of December 31, 2008, production and sale of single ingredient albuterol chlorofluorocarbon (CFC) metered-dose inhalers (MDI) must cease.

Mr. Wright stated that this substantive policy statement will serve as a guide to pharmacists regarding substitution when refilling prescriptions written for MDIs. Mr. Wright stated that the policy would serve as a guideline until the Federal Law takes effect.

Mr. Wand reminded the Board that policies are guidelines and are not enforceable.

The Board Members approved the Substantive Policy for Substitution of Albuterol HFA Inhalers for Albuterol CFC Inhalers.

## **AGENDA ITEM 24 – Board Meeting Dates for 2008**

President Van Hassel opened the discussion by asking the Board Members if there were any issues with the dates selected for next year's Board Meetings.

The Board Members asked that the Meeting scheduled for March 12<sup>th</sup> and 13<sup>th</sup> be moved to March 19<sup>th</sup> and March 20<sup>th</sup>.

The following dates are the proposed Board Meeting dates for 2008:

- January 23 and 24, 2008
- March 19 and 20, 2008
- May 7 and 8, 2008
- July 9 and 10, 2008
- September 17 and 18, 2008
- November 12 and 13, 2008

## **AGENDA ITEM 25 – Department of Health and Human Services Letter to Boards of Pharmacy for Patient Information Evaluation**

President Van Hassel asked Mr. Wand to address this agenda item.

Mr. Wand stated that he received a letter from the Department of Health and Human Services indicating that they would be evaluating written materials given to patients. Mr. Wand stated that the Department is asking the State Boards to cooperate with their studies.

**On motion by Dr. Berry and Mr. Dutcher**, the Board unanimously agreed to participate in the studies conducted by the Department of Health and Human Services to evaluate patient information.

### **AGENDA ITEM 26 – Call to the Public**

President Van Hassel announced that interested parties have the opportunity at this time to address issues of concern to the Board; however the Board may not discuss or resolve any issues because the issues were not posted on the meeting agenda.

No one came forth with any issues or concerns.

The meeting recessed at 3:15 P.M. The meeting will reconvene at 9:00 A.M. on November 15, 2007.

### **AGENDA ITEM 1 – Call to Order – November 15, 2007**

President Van Hassel convened the meeting at 9:08 A.M. and welcomed the audience to the meeting.

The following Board Members were present: President Tom Van Hassel, Chuck Dutcher, Steven Haiber, Louanne Honeyestewa, Dennis McAllister, Paul Sypherd, and Ridge Smidt. The following staff members were present: Compliance Officers Rich Cieslinski, Chuck Cordell, Larry Dick, Ed Hunter, Sandra Sutcliffe, and Dean Wright, Drug Inspector Heather Lathim, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Elizabeth Campbell.

Ms. Frush explained that law continuing education would be offered for attendance at the meeting.

### **AGENDA ITEM 7 – Special Requests**

#### **#1 Devang Pandit**

**Devang Pandit** appeared on his own behalf to request that the Board allow him to take the MPJE exam for the fourth time.

President Van Hassel opened the discussion by asking Mr. Pandit to describe the nature of his request.

Mr. Pandit stated that he is requesting to take the MPJE exam an additional time. Mr. Pandit stated that he has taken the exam three times and has not passed the exam.

Mr. Wand asked Mr. Pandit if he has worked in a pharmacy in Arizona. Mr. Pandit stated that he is reciprocating to Arizona and has worked in Michigan for one year as a pharmacist.

Mr. Van Hassel asked Mr. Pandit if he has a job in Arizona. Mr. Pandit replied that he has been in contact with an employer in Arizona and he will move to Arizona if he passes the exam.

Mr. McAllister asked Mr. Pandit what he has done to improve his knowledge of Arizona law. Mr. Pandit stated that he has reviewed the Arizona law books and has reviewed the Federal laws.

Mr. Haiber asked Mr. Pandit if he finishes the exam. Mr. Pandit stated that he is able to finish the exam.

Mr. Haiber asked Mr. Pandit about taking the exams close together. Mr. Pandit stated that he must wait 30 days to take the exam and at the end of the 30 days he takes the exam.

Mr. Wand recommended that Mr. Pandit purchase the Strauss review book which would help him review Federal Law. Mr. Wand suggested that Mr. Pandit may want to apply for a Graduate Intern license in Arizona and work in an Arizona Pharmacy which would help him learn the Arizona laws.

**On motion by Mr. McAllister and Dr. Smidt**, the Board unanimously approved Mr. Pandit's request to take the MPJE exam one additional time and if Mr. Pandit does not pass the exam he must take a pharmacy law review course before petitioning the Board to take the exam an additional time.

## **#2 Judith Rosch**

**Judith Rosch** appeared on her own behalf to request that the Board terminate the suspension of her pharmacist license and impose probation per Board Order 07-0048-PHR. Lisa Yates was present to answer questions concerning Ms. Rosch's participation in the PAPA program.

President Van Hassel opened the discussion by asking Ms. Rosch to describe the nature of her request. Ms. Rosch stated that she would like to have the suspension removed from her license and have probation imposed.

Mr. Van Hassel asked Ms. Yates if Ms. Rosch has been compliant with her PAPA contract. Ms. Yates stated that Ms. Rosch has complied with her contract and is ready to return to work.

Mr. Dutcher asked Ms. Rosch how long she has been in the PAPA program. Ms. Rosch stated that she signed a confidential contract about 4.5 years ago and violated that contract and has signed a new 5 year contract.



Mr. Wand explained that if a confidential PAPA participant violates their confidential PAPA contract then they are reported to the Board and they must sign a consent agreement that orders them to sign a new PAPA contract as a known PAPA participant.

Mr. Van Hassel asked Ms. Rosch to describe why she signed a PAPA contract initially. Ms. Rosch stated that she signed a confidential PAPA contract based on her use of alcohol. Ms. Rosch stated that she violated that contract by taking Provigil without a prescription. Ms. Rosch stated that over the last 6 months she has recognized character defects that have caused her issues. Ms. Rosch stated that she is seeing a second counselor to help her with these issues. Ms. Rosch stated that the counselor is helping her develop a new approach to resolving these issues. Ms. Rosch stated that she has been a pharmacist for 30 years and would like to return to work.

Dr. Sypherd asked Ms. Rosch about her substance abuse. Ms. Rosch stated that she abused alcohol. Ms. Rosch stated that she started drinking alcohol to treat her insomnia. Ms. Rosch stated that she was suffering from pre-menopausal symptoms and depression.

Ms. Rosch stated that she has learned how to deal with her menopausal symptoms and is on hormone replacement.

Dr. Sypherd asked Ms. Rosch what would prevent her from relapsing again. Ms. Rosch stated that she has an action plan to follow and is seeking help from additional counselors. Ms. Rosch stated that she participates more in peer group discussions and she will not relapse again.

Dr. Smidt asked Ms. Rosch about the use of Provigil without a prescription. Ms. Rosch stated that she took Provigil without a prescription. Ms. Rosch stated that she then received a prescription from her doctor, but was told that she could not take Provigil because it was a controlled substance that was not allowed under her PAPA contract. Ms. Rosch stated that she stopped taking the Provigil.

Dr. Smidt asked Ms. Rosch what character defects she is addressing with her counselors. Ms. Rosch stated that she has always felt that she must be self-sufficient and self-reliant and her counselors have told her that is okay to consult with others before making decisions.

**On motion by Mr. McAllister and Dr. Smidt**, the Board unanimously agreed to approve the request by Ms. Rosch to terminate the suspension imposed on her license and impose probation per Board Order 07-0048-PHR.

### **#3 Stan Kudish**

**Stan Kudish** appeared on his own behalf to request that the Board terminate the suspension of his pharmacist license and impose probation per Board Order 07-0039-PHR. Lisa Yates was present to answer questions concerning Mr. Kudish's participation in the PAPA program.

President Van Hassel opened the discussion by asking Mr. Kudish to describe the nature of his request. Mr. Kudish stated that he would like to have his license changed from suspension to probation. Mr. Kudish stated that he has not worked since January of 2007.

Dr. Smidt asked if Mr. Kudish met with the steering committee. Ms. Yates stated that Mr. Kudish met with the steering committee. Ms. Yates stated that Mr. Kudish is seeing an addictionologist to assist him with his pain management. Ms. Yates stated that Mr. Kudish's counselor recommends that the suspension be removed.

Dr. Sypherd asked Mr. Kudish what he has done to conquer his addiction. Mr. Kudish stated that he attends AA or NA meetings on a daily basis. Mr. Kudish stated that life is better now. Mr. Kudish stated that he is ready to return to work.

Mr. Van Hassel asked Mr. Kudish if he has lined up a job. Mr. Kudish stated that he thought it would be prudent to get his license back before pursuing a job.

**On motion by Mr. Haiber and Mr. Dutcher**, the Board unanimously agreed to approve the request by Mr. Kudish to terminate the suspension imposed on his license and impose probation per Board Order 07-0039-PHR.

#### **#4 Robert Carranza**

**Robert Carranza** appeared on his own behalf to request that the Board terminate the suspension of his pharmacist license and impose probation per Board Order 08-0007-PHR. Lisa Yates was present to answer questions concerning Mr. Carranza's participation in the PAPA program.

President Van Hassel opened the discussion by asking Mr. Carranza to describe the nature of his request. Mr. Carranza stated that he would like to have his license changed from suspension to probation.

Mr. Carranza stated that he signed his consent agreement in August, but had completed his inpatient treatment at a treatment center in Las Vegas in April.

Ms. Campbell explained that Mr. Carranza was given credit for the time that he had not worked and that is why the suspension period is different on his consent agreement.

Mr. Van Hassel asked if Mr. Carranza had met with the PAPA Steering Committee. Ms. Yates stated that Mr. Carranza has met with the PAPA Steering Committee and has met all contractual agreements.

Mr. Wand stated that Mr. Carranza has been very responsive and cooperative.

Mr. Van Hassel asked Mr. Carranza if he is ready to return to work. Mr. Carranza stated that he is ready to return to work. Mr. Carranza stated that he realizes that recovery is life long. Mr. Carranza stated that the PAPA program helps the participants maintain their recovery.

**On motion by Mr. McAllister and Mr. Haiber**, the Board unanimously agreed to approve the request by Mr. Carranza to terminate the suspension imposed on his license and impose probation per Board Order 08-0007-PHR.

## **#5 Andrew Marek**

**Andrew Marek** appeared on his own behalf to request that the Board terminate the probation of his pharmacist license per Board Order 07-0055-PHR.

President Van Hassel opened the discussion by asking Mr. Marek to describe the nature of his request. Mr. Marek stated that he is requesting the removal of probation from his Pharmacist license. Mr. Marek stated that he mis-filled a prescription and was placed on probation.

Mr. Van Hassel asked Mr. Marek what has changed in his practice. Mr. Marek stated that he is no longer working at the high volume store where he made the error and is now a floater. Mr. Marek stated that he now scans every prescription.

Mr. Dutcher asked Mr. Marek if he paid his fine. Mr. Marek stated that he was told that he could pay his fine after meeting with the Board.

Mr. Dutcher asked Mr. Marek if he would go back to the high volume store. Mr. Marek stated that he would have no problems in going back to the high volume store.

Dr. Sypherd asked Mr. Marek what he does when he has a sound alike drug. Mr. Marek replied that he scans all prescriptions.

Mr. Dutcher reminded Mr. Marek that the pharmacist sets the pace at which he works and he should work at a pace that is comfortable.

Mr. Van Hassel reminded Mr. Marek that the company has given the pharmacists tools to help prevent errors from occurring and reminded Mr. Marek that he should use the tools that are available to help prevent errors.

**On motion by Mr. McAllister and Mr. Haiber**, the Board unanimously agreed to approve the request by Mr. Marek to terminate the probation on his license contingent on meeting all requirements of the Board Order 07-0055-PHR.

## **#6 Denise Jordan**

**Denise Jordan** appeared on her own behalf to request that the Board terminate the probation of her Pharmacy Technician license imposed by Board Order 07-0001-PHR.

President Van Hassel opened the discussion by asking Ms. Jordan to describe the nature of her request. Ms. Jordan stated that she is requesting that her probation be terminated.

Mr. Van Hassel asked Ms. Jordan to explain why she was placed on probation. Ms. Jordan stated that she tested positive for marijuana on a random drug screen. Ms. Jordan stated that she was terminated from her job. Ms. Jordan stated that she agreed to participate in the TASC program as part of her probation. Ms. Jordan stated that she completed the TASC program and has learned her lesson.

Mr. Van Hassel asked Ms. Jordan what she was required to do as part of the TASC program. Ms. Jordan stated that she was required to complete 16 weeks of counseling

and was called for random urine screens for one year. Ms. Jordan stated that she was required to pay for the urine screens.

Mr. Van Hassel noted that Ms. Jordan was the first technician to accept a consent agreement for participation in the TASC program and had completed the program.

Mr. Dutcher asked Ms. Jordan if she has overcome her problem. Ms. Jordan stated that she now understands that marijuana is a drug. Ms. Jordan stated that the counseling was very helpful. Ms. Jordan stated that she never thought of marijuana as a drug and her counselor reviewed with her that marijuana is a drug.

Mr. Van Hassel asked Ms. Jordan about the urine screens. Ms. Jordan stated that she had to call daily to see if she needed to be tested that day. Ms. Jordan stated that if you were called for testing that you had to be tested by five o'clock that day.

Ms. Jordan stated that she likes working as a pharmacy technician and wants to thank the Board for the opportunity to participate in the program.

Mr. Wand stated that Ms. Jordan sent a letter every month updating him on her progress in the program. Mr. Wand stated that Ms. Jordan was the first technician to take advantage of the program.

Mr. Wand asked Ms. Jordan if she felt the PAPA program would be helpful. Ms. Jordan stated that she is not aware of all the aspects of the PAPA program, but felt more counseling would be beneficial.

Dr. Sypherd asked Ms. Jordan if she thought she was impaired at work when she tested positive for Marijuana. Ms. Jordan stated that she argued with her counselor that she was not impaired. Ms. Jordan stated that her counselor educated her about what marijuana and its metabolites do your body and how you are under the influence of a drug. Ms. Jordan stated that she now realizes that marijuana is a drug and she no longer uses marijuana.

**On motion by Mr. Dutcher and Mr. McAllister**, the Board unanimously agreed to approve the request by Ms. Jordan to terminate the probation on her license imposed by Board Order 07-0001-PHR.

## **#7 Mark Forster**

Dr. Smidt recused himself from participating in the review, discussion, and proposed action concerning this agenda item

**Mark Forster** appeared on his own behalf to request that the Board terminate the suspension of his pharmacist license imposed per Board Order 02-0003-PHR.

President Van Hassel opened the discussion by asking Mr. Forster to describe the nature of his request. Mr. Forster stated that is requesting that the Board terminate the suspension placed on his Pharmacist license. Mr. Forster stated that his license has been on suspension for 5 years.

Mr. Van Hassel asked Mr. Forster to give a brief overview of the circumstances that caused his license to be suspended. Mr. Forster stated that it was a complicated web involving wholesale distribution. Mr. Forster stated that his pharmacist license was first suspended in Illinois.

Mr. Van Hassel asked Mr. Forster if he has worked in a pharmacy anywhere during the past five years. Mr. Forster stated that he has not worked in a pharmacy. Mr. Forster stated that he is current on his CE requirements.

Mr. Dutcher asked Mr. Forster if his Illinois license is still suspended. Mr. Forster stated that his license was suspended indefinitely. Mr. Forster stated that they told him that he could return in a year to ask that the suspension be lifted. Mr. Forster stated that he never returned to Illinois to request that the suspension be removed.

Mr. Dutcher asked Mr. Forster when he was last behind the counter dispensing medications. Mr. Forster stated that he was last behind the counter about seven years ago. Mr. Forster stated that he is familiar with State and Federal laws.

Mr. Dutcher asked Mr. Forster if he feels that he is qualified to re-enter the pharmacy field. Mr. Forster stated that he feels that he is qualified. Mr. Forster stated prior to his legal problems he worked as a consultant pharmacist. Mr. Forster stated that he keeps current by reading magazines and journals.

Mr. Van Hassel asked Mr. Forster if he used an alias as stated on the Texas charges. Mr. Forster stated that he did own the company, but did not use the alias listed on the Texas records. Mr. Forster stated that he is aware of the laws and he will not be involved in any wholesaling businesses.

Mr. McAllister noted that Mr. Forster has met the requirements of the consent agreement. Mr. McAllister stated that he has paid the fees to bring his license current, has completed the CE requirements, and has passed the MPJE exam.

Mr. McAllister asked Mr. Forster if he has met the criminal requirements. Mr. Forster stated that he is paying restitution.

Mr. Dutcher asked if Mr. Forster if he is on probation. Mr. Forster stated that he is on federal probation due to the charges that were filed in Texas.

Mr. Dutcher stated that he concerned about Mr. Forster's re-introduction into pharmacy.

Ms. Campbell stated that the issue before the Board today is the removal of the suspension placed on Mr. Forster's license. Ms. Campbell stated that the Board Members could open a new complaint concerning the Texas case. Ms. Campbell further stated that if Mr. Forster had been previously disciplined by the Board for the same behavior the Board could not discipline him again.

**On motion by Mr. McAllister and Dr. Sypherd,** the Board unanimously agreed to approve Mr. Forster's request to remove the suspension placed on his pharmacist license imposed by Board Order 02-0003-PHR.

## **AGENDA ITEM 8 – License Applications Requiring Board Review**

### **#2 Jeanmarie Hazard**

**Jeanmarie Hazard** appeared on her own behalf to request that her revoked pharmacist license be reinstated. Lisa Yates from the PAPA program was also present.

President Van Hassel opened the discussion by asking Ms. Hazard to describe the nature of her request.

Ms. Hazard stated that she would like to have her pharmacist license reinstated.

Mr. Van Hassel asked Ms. Yates if Ms. Hazard has been compliant with her PAPA requirements. Ms. Yates replied that Ms. Hazard has been compliant.

Ms. Hazard stated at the last meeting it was recommended that she complete her CE requirements to remain current. Ms. Hazard stated that she has completed her CE requirements and has brought copies to present to the Board.

Dr. Smidt asked if Ms. Hazard met with the PAPA Steering Committee. Ms. Yates replied that Ms. Hazard met with the PAPA Steering Committee in October.

Mr. Van Hassel asked Ms. Hazard about her meeting attendance. Ms. Hazard stated that she attends three meetings a week. Ms. Hazard stated that she has switched her home group recently because she felt that she was becoming complacent at her other home group.

Dr. Smidt asked Ms. Hazard about the acceptance of her disease. Ms. Hazard stated that she knows that she is an addict and realizes that there are some things over which she has no power. Ms. Hazard stated that she does have tools to help overcome her addiction.

Dr. Smidt asked Ms. Hazard to describe the various tools that she can use to help with her addiction. Ms. Hazard stated that she has learned to rely on others as support. Ms. Hazard stated that she has a support group of friends.

Dr. Smidt asked Ms. Hazard if the roles were reversed and she was a Board Member what she would do in this situation. Ms. Hazard stated that she would return the license with restrictions. Ms. Hazard stated that she would require that the person be supervised and away from drugs.

Dr. Smidt asked why the individual would need to be kept away from drugs. Ms. Hazard replied for the public safety. Ms. Hazard stated that she does not have any issues about being around drugs.

Mr. Dutcher asked if Ms. Hazard has made all her payments to the PAPA program. Ms. Yates replied that Ms. Hazard's payments are current at this time.

Dr. Sypherd asked Ms. Hazard about her relapse prior to the heroin relapse. Ms. Hazard stated that she entered the PAPA program as a confidential participant and then tested

positive for Darvocet. Ms. Hazard stated that she then signed a new contract as a known participant.

Dr. Sypherd told Ms. Hazard that if the Board reinstates her license and she was to relapse again and appear before the Board it would probably end her career as a pharmacist.

Dr. Smidt asked Ms. Yates about the relapse rate for certain drugs. Ms. Yates stated that hospital pharmacists have a higher risk of relapse since most of the pharmacists injected the drug.

Mr. Dutcher asked Ms. Hazard to convince the Board why they should reinstate her license. Ms. Hazard stated that she now has a plan of action. Ms. Hazard stated that she has went to several job fairs for mail order facilities to learn about jobs at those sites. Ms. Hazard stated that if her license is reinstated she could also work for the registry. Ms. Hazard stated that she also has some friends that could offer her employment as a pharmacist.

Mr. Dutcher asked Ms. Hazard if she has worked in any other practice settings other than the hospital setting. Ms. Hazard stated that she was worked in several different practice settings which include: retail, home care, and hospital.

Mr. Wand asked Ms. Hazard if she ever worked in the narcotic room or was in charge of the narcotic room at the hospital. Ms. Hazard replied no.

Mr. McAllister stated that he does detect some change in her behavior. Mr. McAllister stated that he does not have confidence yet that she is ready to return to work.

Dr. Sypherd asked the Board Members what else Ms. Hazard could do to show the Board Members that she is ready to return to work.

Mr. McAllister replied that Ms. Hazard could continue on her path to recovery with continued success. Mr. McAllister stated that Ms. Hazard has had multiple relapses and the last relapse was with a street drug.

Dr. Smidt stated that he also notices improvement and Ms. Hazard seemed more alert. Dr. Smidt stated that she needs to continue on her path to recovery.

Mr. Dutcher stated that he feels that her track record is not sufficient at this time.

**On motion by Mr. McAllister and Dr. Smidt**, the Board unanimously agreed to deny the request by Ms. Hazard to reinstate her pharmacist license.

## **AGENDA ITEM 9 – Reports**

### **Pharmacist Assisting Pharmacists of Arizona (PAPA) Report**

Lisa Yates was present to represent the PAPA program. Ms. Yates stated that there are a total of thirty eight (38) pharmacists in the PAPA program. Since the last report on September 11, 2007 there has been one (1) new participant come into the program, there

is one (1) pending signature of contract, two (2) participants that have completed their contracts, and one (1) termination of contract.

Ms. Yates stated at the last meeting the Board had asked about the policies and procedures for missed screens and over hydrated urine screens. Ms. Yates stated that the issues were discussed by the PAPA steering committee and the PAPA counselors. Ms. Yates stated that the new protocol will require the participant to have a hair analysis test done at a testing site designated by PAPA, after their second missed and/or over hydrated urine screen within a two year period. The test will be at the participant's expense. Ms. Yates stated that notification will also be sent to the Board.

Ms. Yates stated that she should have the protocol completed by December and will send a letter to the Board notifying the Board when the protocol is in place.

## **AGENDA ITEM 10– Conferences**

### **Complaint # 3343**

Pharmacist Cynthia Solski was present to answer questions from Board Members concerning a consumer complaint. The representative from Safeway was not present because Ms. Solski appeared on Wednesday instead of Thursday as requested. Ms. Solski stated that she was unable to appear on Thursday, so the Board allowed her to respond to the complaint on Wednesday.

Compliance Officer Sandra Sutcliffe gave a brief overview of the complaint. Ms. Sutcliffe stated that the complainant stated that he was forced to go without his pain medications because the pharmacist did not order his medication or did not fill his prescriptions. The patient filed the complaint after the pharmacist refused to fill his prescription for his pain medication giving him various excuses of why she could not fill the prescription. Ms. Sutcliffe stated that she was told by the supervisor that Ms. Solski was currently on suspension and her ongoing status was to be determined. Ms. Solski also did not respond to the letter sent by the Board.

President Van Hassel asked Ms. Solski to address the complaint. Ms. Solski stated that the patient may have misinterpreted her comments. Ms. Solski stated that prior to moving to Williams she was previously an instructor in the academic environment. Ms. Solski stated that the people at the Safeway store did not like her. Ms. Solski stated some patients felt that she was lecturing them when she provided counseling.

Mr. Van Hassel asked Ms. Solski if she filled the Dilaudid prescription. Ms. Solski stated that the prescription was filled the next day.

Ms. Solski stated that she may not have been able to fill the prescription that night because she did not have the product. Ms. Solski stated that the patient did not state that he was out of medication or she would have filled his prescription that night for him if she had the product.

Ms. Solski stated that patients did not like the fact that she was slower than the pharmacist that previously had worked at the store. Ms. Solski stated that she verified all



allergy information and patient information which caused her to be slower and as a result patients felt that she was slow and incompetent.

Ms. Solski stated that sometimes there were staffing issues. Ms. Solski stated that often she did not have adequate staff to process scripts rapidly. Ms. Solski stated that she would have the technicians triage the work.

Ms. Solski stated that she felt that she was not trusted and she needed to find a new environment. Ms. Solski stated that she has quit working for Safeway and has moved.

Mr. Van Hassel asked Ms. Solski about her suspension. Ms. Solski stated that she was working at the Flagstaff store when the Compliance Officer visited the Williams store. Ms. Solski stated that she was suspended earlier because a technician stated that she had poked her.

Mr. Dutcher asked Ms. Solski why the prescription was filled the next day. Ms. Solski stated that she may have been out of the medication. Ms. Solski stated that she often asked patients to leave prescriptions overnight because of the staffing situation.

Ms. Solski stated that she was expected to do 200 prescriptions a day with one technician and a cashier. Ms. Solski stated that she could not do that volume. Ms. Solski stated that if she reviewed the patient's profile and they still had tablets she would ask them to come back the next day for their prescription.

Ms. Solski stated that she had numerous complaints from customers because they did not like her. Ms. Solski stated that she decided to find a new job when she was written up for being sick.

Mr. Dutcher asked Ms. Solski if she is currently licensed in Arizona. Ms. Solski replied that she did not renew her Arizona license in October as she does not intend to come back to Arizona to practice. Ms. Solski stated that she has moved to New Mexico.

The Board Members decided not to have the Safeway representative appear on Thursday because the issues were customer service issues.

**On motion by Dr. Sypherd and Mr. McAllister**, the Board unanimously agreed to dismiss the complaint against Ms. Solski.

### **Complaint #3393**

The following individuals were present to answer questions from Board Members concerning a consumer complaint: Lupe Castillo (Pharmacist), Carter Simpson (Pharmacy Supervisor), and Roger Morris (Legal Counsel for CVS).

Compliance Officer Rich Cieslinski gave a brief overview. Mr. Cieslinski stated that the complainant presented a prescription to the pharmacy for Vagifem 25mcg Vaginal Tablets. The prescription was written for a three month supply with three refills. The directions were to use one tablet vaginally two to three times a week. The pharmacist filled the prescription for 12 tablets with three refills. When the patient had used the three refills, the pharmacist told that patient that she would need to obtain a new

prescription. The doctor told the patient that the prescription was written correctly for a one year supply. The pharmacist stated that the prescription was entered incorrectly.

President Van Hassel asked Mr. Castillo to address the complaint. Mr. Castillo stated that the prescription was incorrectly entered for a one month supply instead of a three month supply.

Mr. Dutcher asked Mr. Castillo what he could have done at the store level to have prevented the patient from filing a customer service complaint with the Board. Mr. Castillo stated that he could have paid closer attention to the fact that the doctor wrote the prescription for a three month supply and ensured that the prescription was entered correctly.

Mr. Dutcher asked why this patient filed a complaint. Mr. Simpson indicated that he had spoke with the patient and she had many issues with the service that she had received at this pharmacy. Mr. Simpson stated that some of the complaints were prior to Mr. Castillo taking over the store as the Pharmacist In Charge. Mr. Simpson stated that Mr. Castillo accepted the Pharmacist In Charge position three weeks prior to this complaint being filed by the patient.

Mr. Simpson stated that since Mr. Castillo had accepted the Pharmacist in Charge position the level of service has improved in the store. Mr. Simpson stated that if there are any deficiencies noted in the store he addresses the deficiencies with Mr. Castillo.

Mr. Dutcher stated that the patient stated that no one at the pharmacy apologized. Mr. Dutcher told Mr. Castillo a simple apology would have solved the issue.

Mr. Dutcher asked Mr. Castillo if he counseled the patient. Mr. Castillo stated that the patient was not counseled. Mr. Cieslinski stated that the patient stated that she refused counseling, but there was no documentation at the pharmacy indicating the she refused counseling.

**On motion by Mr. McAllister and Dr. Smidt**, the Board unanimously agreed to dismiss the complaint against Mr. Castillo.

#### **Complaint #3394**

The following individuals were present to answer questions from Board Members concerning a consumer complaint: Bitá Esmaeiloo (Pharmacist), Nancy Joy Davis (Pharmacy Technician), Dan Johnson (Pharmacy Supervisor), and Roger Morris (Legal Counsel).

Compliance Officer Larry Dick gave a brief overview. Mr. Dick stated that the Board received an anonymous complaint indicating that a Pharmacy Technician routinely oversteps her bounds. The complainant stated that the technician compounded a prescription, did not have the pharmacist verify the prescription, counseled the patient, and the prescription left the pharmacy without a label. The Pharmacist In Charge stated that the technician does not overstep her bounds. The Pharmacist In Charge stated that there was an incident where a prescription did leave the pharmacy without a label. The

prescription was written for 10 tablets of Singular 10 mg to be dissolved in 45-60 cc of normal saline. The pharmacy entered and dispensed the prescription for 10 tablets of Singular 10 mg. with directions to dissolve in normal saline. The patient asked the pharmacist to dissolve the tablets in the saline as her other pharmacy had done in the past. The other pharmacy was called and the recipe was received. The pharmacy technician compounded the product and failed to give the compounded product to the pharmacist to verify. The prescription was given to the patient with the incorrect label on the bottle.

Mr. Van Hassel asked who originated the complaint. Ms. Frush stated that the complaint was an anonymous complaint.

Dr. Smidt asked Ms. Esmaeiloo if she observed the compounding of the medication. Ms. Esmaeiloo stated that she compounded the medication under her supervision.

Dr. Smidt asked Ms. Esmaeiloo if the technician handed the bottle to the patient. Ms. Esmaeiloo stated that the technician failed to reprint the label and also failed to call her to the counter to counsel the patient.

Mr. Van Hassel asked Ms. Davis if she compounded the product. Ms. Davis replied that she prepared the compound. Ms. Davis stated that she followed the directions provided by the other pharmacy and prepared the medication. Ms. Davis stated that she used Ocean Nasal Spray for the normal saline. Ms. Davis stated that the bottle said Ocean Nasal Spray only.

Mr. Haiber asked if this was a new prescription. Ms. Esmaeiloo replied yes.

Mr. Haiber asked why the prescription was not filled as the doctor had written the prescription. Ms. Esmaeiloo stated that the prescription was actually filled the previous day. Ms. Esmaeiloo stated that the pharmacist had placed the 10 tablets in a prescription vial with directions to dissolve in saline and use nasally. Ms. Esmaeiloo stated that when the patient came to the pharmacy they were asked to compound the prescription.

Mr. Haiber asked why the pharmacist did not compound the prescription because the directions clearly state to dissolve in saline. Mr. Johnson stated that the pharmacist had called the doctor because there were no specifications of how to mix the product.

Mr. McAllister stated that he read all three statements. Mr. McAllister stated that if the patient had not asked to have the prescription compounded, the patient would have needed to compound the prescription and he is sure that was not the doctor's intent. Mr. McAllister stated that the directions are very clear to dissolve the Singular tablets in normal saline.

Mr. McAllister stated that he feels that the technician was set up by a pharmacist who did not do their job.

Mr. Johnson asked if the Board would like to hear from the other pharmacist.

Ms. Campbell stated that the Board could hear from the other pharmacist as a fact witness. Ms. Campbell stated that the Board could also open a complaint against the other pharmacist.

**On motion by Mr. McAllister and Mr. Dutcher,** the Board unanimously agreed to open a complaint against the other pharmacist (Randall Deal).

Mr. Dutcher stated that there seems to be communication issues in this pharmacy. Mr. Johnson stated that he would like the Board to know that he never spoke with the patient.

Mr. McAllister stated that a pharmacist has an obligation to their patient to prepare the prescription as ordered by the physician. Mr. McAllister stated that the parents could have placed the tablets in the baby's nose.

Mr. Haiber indicated that there were also misbranding issues.

Mr. Van Hassel asked Ms. Davis to explain what changes have been made in the pharmacy to prevent this type of incident from occurring again. Ms. Davis stated that when a prescription is presented to the pharmacy and they do not understand the directions a call is made to the doctor and the prescription is only filled after clarification with the doctor.

Mr. Van Hassel asked Ms. Davis how she would handle the same prescription if she received the prescription today and had received the clarification from the doctor. Ms. Davis stated that she would compound the prescription as the doctor wrote the prescription and she would then give the prescription back to the pharmacist, so that the pharmacist could update the directions and verify the prescription.

**On motion by Dr. Smidt and Mr. McAllister,** the Board unanimously agreed to issue an advisory letter to Ms. Esmaeiloo and Ms. Davis.

### **Complaint #3401**

The following individuals were present to answer questions from Board Members concerning a consumer complaint: Jamie Logsdon (Pharmacist), Juana Castellanos-Alvarez (Pharmacy Technician), Paul Wachter (Pharmacy Supervisor), and Roger Morris (Legal Counsel for CVS).

Compliance Officer Sandra Sutcliffe gave a brief overview. Ms. Sutcliffe stated that the complainant's daughter received a prescription for Zolpidem instead of her correct prescription for Nasonex. Ms. Sutcliffe stated that the complainant brought in prescriptions for both the mother and the child. Ms. Sutcliffe stated that the prescription for Zolpidem was entered under the child's name by the technician and the error was not caught by the pharmacist during verification. Ms. Sutcliffe stated that the pharmacy alleges that counseling was declined by the patient, however there is no documentation by the pharmacist that counseling was performed or counseling was denied.

President Van Hassel opened the discussion by asking Ms. Logsdon to address the error. Ms. Logsdon stated the prescriptions were filled and the patient called back 12 days later questioning why his daughter was prescribed Ambien. Ms. Logsdon stated that she established that an error was made and asked the patient to return the bottle to the pharmacy and she would correct the label.

Mr. Van Hassel asked if the patient was counseled. Ms. Logsdon replied no.

Mr. Van Hassel asked Ms. Castellanos-Alvarez to describe the process when she enters new prescriptions. Ms. Castellanos-Alvarez stated that all prescriptions for the same family are placed in the same basket. Ms. Castellanos stated that the first prescription was for the daughter and she entered all the prescriptions under the daughter's name.

Mr. Dutcher asked Ms. Logsdon if she noticed the birthdates on the prescriptions. Mr. Dutcher told Ms. Logsdon if she reviewed the birth dates she would have realized that a 6 year old child should not receive Ambien. Ms. Logsdon stated that she saw the address and birth date, but it did not register that the prescription was entered for a child.

Mr. Dutcher asked Ms. Logsdon if she filled 300 prescriptions that day. Ms. Logsdon stated that was incorrect. Ms. Logsdon stated that 300 prescriptions were filled the day the patient picked up the prescriptions and that the actual number filled the day the error was made was 180 prescriptions.

Mr. Dutcher told Ms. Logsdon that she had two chances to correct the error. Mr. Dutcher stated that she could have caught the error during verification and when she counseled the patient. Ms. Logsdon stated that she did not catch the error during verification and the patient refused counseling.

Mr. Haiber asked Ms. Sutcliffe if there was any documentation that showed counseling was provided. Ms. Sutcliffe stated that CVS does have forms available to document counseling, but the forms were not in use at this pharmacy.

Mr. Haiber asked Mr. Wachter if the forms are available confirming that counseling has been performed. Mr. Wachter stated that the forms are available and the pharmacist must indicate that counseling was performed and who performed the counseling.

Mr. Haiber asked if management follows up to see that the pharmacies are documenting that counseling was provided. Mr. Wachter stated that the supervisors review the sheets when they visit the pharmacies to ensure that the sheets are being used appropriately.

Mr. Wachter stated Ms. Logsdon was having trouble obtaining the new documentation sheets, but she now has the correct sheets to document counseling. Ms. Logsdon stated that she had the wrong number to order the sheets.

Mr. Van Hassel asked Ms. Logsdon if she documents the counseling now that she has the correct forms. Ms. Logsdon stated that counseling is documented for every new prescription. Ms. Logsdon stated that the pharmacist is responsible for documenting the counseling.

Dr. Smidt asked Ms. Logsdon if she reviewed a DUR edit since the system should flag that the patient was a child. Ms. Logsdon stated that a DUR message did pop-up on the screen. Ms. Logsdon stated that the message stated the following: Dosage Not Established. Ms. Logsdon stated that she felt the dosage was fine because the directions were to take one tablet at bedtime and she did not see any issue with the directions. Ms. Logsdon stated that she did not realize that the prescription was entered for a child.

Dr. Smidt asked Ms. Castellanos-Alvarez when she enters the prescription if the DUR screen alerts her to the fact that the patient was a child. Ms. Castellanos-Alvarez stated that she does not see any DUR screens that only the pharmacists see the DUR screens. Ms. Castellanos-Alvarez stated that if there is a problem with dosage the pharmacist must resolve the issue.

**Dr. Smidt and Dr. Sypherd made a motion to issue to offer a consent order to Ms. Logsdon with a \$1,000 fine.** Dr. Smidt and Dr. Sypherd then withdrew the motion.

**On motion by Mr. McAllister and Dr. Smidt,** the Board unanimously agreed to offer a consent agreement to Ms. Logsdon with the following terms: a \$1,000 fine.

**On motion by Mr. McAllister and Dr. Smidt,** the Board unanimously agreed to issue an advisory letter to Ms. Juana- Castellanos- Alvarez.

### **Complaint #3409**

The following individuals were present to answer questions from Board Members concerning a consumer complaint: James Rehovsky (Pharmacist), Mark Boesen (Director of Government Affairs for the Apothecary Shops), Roger Morris (Legal Counsel for the Apothecary Shops), and Amy Gobster (Legal Counsel for the Apothecary Shops).

Compliance Officer Rich Cieslinski gave a brief overview of the complaint. Mr. Cieslinski stated that an insurance plan filed this complaint against a pharmacy for filling excessive narcotic prescriptions for a patient. The insurance plan alleges the pharmacy will consistently try to bill the plan until the claim is paid. Mr. Cieslinski stated that there were several questionable practices concerning recordkeeping. Mr. Cieslinski stated that the pharmacy assigns two different prescription numbers to the same narcotic prescription and the prescriptions are filled several days apart. Mr. Cieslinski stated that a CII prescription was filled past the 60 day limit. Mr. Cieslinski stated that the pharmacy filled three prescriptions on the same day, dated the same day, for the same drug without any notation. Mr. Cieslinski stated that the pharmacy filled a faxed-in CII prescription without a valid prescription. The Compliance Officer noted that no notations or annotations were found during the investigation, where the prescriber was called to verify dosing, multiple therapy, or frequency with which the prescriptions were filled.

President Van Hassel asked Mr. Rehovsky to address the issues. Mr. Rehovsky stated that the patient is a long standing patient at his pharmacy. Mr. Rehovsky stated that the patient is present. Mr. Rehovsky stated that the patient goes to the same physician for all her prescriptions. Mr. Rehovsky stated that the patient has been filling prescriptions at their pharmacy for eight years. Mr. Rehovsky stated that the patient has received different dosage forms. Mr. Rehovsky stated that the patient lives out of state and still comes to Arizona to see the doctor and have her prescriptions filled at their pharmacy.

Mr. Rehovsky stated that the insurance company filed the complaint after the patient filed a complaint against the insurance company because they refused to cover certain medications.

Mr. Rehovsky stated that multiple prescriptions were filled on the same day because they used coupons issued by the manufacturer to assist the customer in paying for her medication when her claims were denied by the insurance company. Mr. Rehovsky stated that the coupons would only cover 28 tablets at a time and each coupon had to be for a separate prescription number.

Mr. Boesen stated that the patient has a complicated therapy. Mr. Boesen stated that many of the issues were related to using coupons to help the patient pay for her medications.

Mr. Van Hassel asked Mr. Cieslinski to address some of the other issues. Mr. Cieslinski stated that the dates were not consistent on prescriptions filled. Mr. Cieslinski stated that sometimes the prescriptions had two different numbers filled several days apart. Mr. Cieslinski stated that three prescriptions were filled on one day for the same quantity. Mr. Cieslinski stated a faxed prescription was the only prescription available for a prescription and no hardcopy had been obtained by the pharmacy and the product was shipped out Fed-EX ground. Mr. Cieslinski stated that he was at the pharmacy on August 10, 2007 and the fax had been received on August 7, 2007.

Mr. Boesen stated that sometimes the prescriptions had different numbers because of billing issues. Mr. Boesen stated that there were some issues with dates and dispensing dates and Mr. Rehovsky is aware of the problems. Mr. Boesen stated that the three prescriptions filled on the same date because of the coupons. Mr. Boesen stated that the doctor dated the faxed prescription for the date that they picked up the prescription and not the date that the prescription was written.

Mr. Boesen stated that they often submitted prescriptions to HealthNet multiple times because the reject message from the carrier was "Maximum quantity exceeded". Mr. Boesen stated that they would keep changing the quantity and resubmitting the claim until the insurance company paid the claim.

Mr. Van Hassel asked Mr. Cieslinski if these are isolated cases or is this indicative of the documentation at the pharmacy. Mr. Cieslinski stated that the technician that was managing this patient's prescriptions was overwhelmed. Mr. Cieslinski stated that he only researched this particular patient's prescriptions, but there may be other instances of improper documentation.

Mr. Boesen indicated that Mr. Rehovsky has completed CE units to help with any discrepancies that exist.

Mr. Dutcher stated that this is not a consistent practice in dispensing prescriptions and the recordkeeping is sloppy. Mr. Dutcher asked about using multiple coupons for a single prescription.

Mr. Boesen stated that if they filled a prescription and received coupons later from the manufacturer then they would reimburse the patient. Mr. Boesen stated that they filled the original prescription for the patient and then asked the doctor to give them four prescriptions to cover the same quantity. The pharmacy gave the doctor the original prescription back and she issued four prescriptions, so that the pharmacy could rebill the prescriptions using coupons from the manufacturer.

Mr. Dutcher asked why they went back a month to rebill the prescriptions instead of using the coupons for future prescriptions. Mr. Boesen stated that they would be able to obtain additional coupons for future prescriptions.

Mr. Dutcher stated that he feels it is a lack of professional responsibility to not document dates correctly on filled prescriptions.

**On motion by Mr. McAllister and Mr. Dutcher,** the Board unanimously agreed to dismiss the complaint against Mr. Rehovsky.

### **Complaint #3412**

The following individuals were present to answer questions from Board Members concerning a consumer complaint: Krystal Hicks (Pharmacist ) and Buck Stanford (Pharmacy Supervisor).

Compliance Officer Chuck Cordell gave a brief overview. Mr. Cordell stated that the Board Office received an anonymous complaint indicating that the Pharmacist In Charge was dispensing Oxycontin 80 mg without a valid prescription on three occasions to the same individual at the store. A photocopy of the perpetual inventory form indicates emergency dispensing of Oxycontin on three occasions consisting of 2 tablets, 12 tablets and 12 tablets. An audit of the Oxycontin prescriptions did not find any prescriptions to support the emergency dispensing. The pharmacist indicated that the patient was in severe pain and the quantities for the emergency dispensing were deducted from the next written Oxycontin prescription the patient received from the physician.

President Van Hassel asked Ms. Hicks to address the complaint. Ms. Hicks stated that all the emergency prescriptions were filled for the same patient. Ms. Hicks stated that the patient was very ill and had been coming to the pharmacy for a long time. Ms. Hicks stated that she did notify the doctor and the doctor authorized the emergency supply.

Ms. Hicks stated that the Compliance Officers explained to her that she needed a prescription for each emergency prescription. Ms. Hicks stated that she has obtained emergency prescriptions from the doctor for each of the dates that she dispensed an emergency quantity.

Dr. Smidt stated that the audit showed a shortage of 123 tablets and asked Ms. Hicks to explain the shortage. Ms. Hicks stated that they were missing a prescription for 100 tablets and did locate the prescription at a later date.

Dr. Smidt asked if the lost prescription was for the same patient. Ms. Hicks replied yes.

Mr. Van Hassel asked Ms. Hicks if she knows the procedure for obtaining an emergency prescription. Ms. Hicks replied that she now knows the proper procedure and has educated her staff. Ms. Hicks stated that she had previously worked as a clinical pharmacist and was behind in knowing the proper procedures.



Mr. Stanford stated that Ms. Hicks has been trained on the proper procedure for filling emergency prescriptions and feels this complaint was filed by a former employee that was terminated.

**On motion by Mr. McAllister and Mr. Haiber**, the Board unanimously agreed to dismiss the complaint against Ms. Hicks.

#### **AGENDA ITEM 15 – Proposed Immunization Rule Changes – R4-23-411 (A)**

President Van Hassel asked Mr. Wand to address this agenda item. Mr. Wand stated that he has received a proposal as a result of the March Board Meeting to revise the rules to include additional vaccines based on CDC publications.

Mr. Herrier was present to discuss the changes. Mr. Herrier stated that by changing the language it would assist the Board by not requiring the Board to change the language of the rule every time a new vaccine was approved.

Mr. Wand stated that there may be issues with the approval of the rule because the approved list would be maintained by an outside organization.

Mr. Wright stated that he could present the rule as written for GRCC approval. Mr. Wright stated that GRCC may have concern about the language because the list would be incorporated by reference.

Mr. Wright stated that the other alternative would be for the Board to approve the list annually.

**On motion by Mr. McAllister and Mr. Dutcher**, the Board unanimously endorsed the new language and authorized Mr. Wright to present the rule to GRCC for approval.

#### **AGENDA ITEM 16 – Possible Legislative Changes for Next Year**

President Van Hassel asked Mr. Wand to address the possible legislative changes.

##### **A.R.S. § 32-1933 (A) – Display of License**

Mr. Wand stated that this statute requires that the wall license be posted at the pharmacy. Mr. Wand stated that he has been asked if the statute could be changed to eliminate the posting of the license.

Mr. Wand stated that there could be several options. The statute could be changed to include the license number on the name badge. Mr. Wand stated that a sign could be posted listing the individuals on duty and their license number.

Mr. McAllister stated that he feels the statute should be changed. Mr. McAllister stated that he does not feel it is necessary to post the wall certificate in a hospital or mail-order facility. Mr. McAllister stated that he feels the rules state that a name tag must be worn and that should be sufficient.

Mr. Wand stated that the licenses can be verified on the Board's website.

Mr. Van Hassel stated that the law could be changed requiring everyone to review the licenses at their site annually.

Mr. Wand stated that he would talk with the legislative liaison to see what proposed changes he feels would be accepted by the legislature.

Ms. Campbell noted that as long as the statute is in effect the Board must enforce the current statute.

**A.R.S. § 32-1961 and R4-23-604 (H) (1) (d) – Remove the requirement that a pharmacist must be present at a non-prescription drug manufacturer**

Mr. Wand stated that last year the Board voted to eliminate the requirement that a pharmacist be present at a non-prescription manufacturing site.

Mr. Wand stated that the Legislature passed the Bill, but the Bill was struck and was re-written as the Controlled Substances Prescription Monitoring Bill.

Dr. Smidt asked if a pharmacist is needed at a prescription manufacturing site. Mr. Wand stated that it could be modified to include both types of manufacturing sites.

Mr. McAllister stated that manufacturing sites are regulated by the FDA and he is not sure if it is necessary to require a pharmacist be present during the manufacturing process.

**On motion by Dr. Smidt and Mr. McAllister,** the Board unanimously agreed to remove the requirement that there be a pharmacist in charge at a manufacturer. This would include both prescription and non-prescription manufacturers.

**AGENDA ITEM 17 – Overview of Border Governors Conference – Proposal to increase the safety and security of prescription drugs that are available across the United States and Mexico border**

President Van Hassel asked Mr. Wand to address this issue.

Mr. Wand stated that he received a letter concerning the recent meeting between the Border Governors and Mexican officials.

Mr. Wand stated that one of the resolutions was to have Border states approve drugs coming from Mexico and allow the drugs into the drug distribution channel. Mr. Wand stated that this is contrary to Federal Law.

Mr. Dutcher asked if this would only include drugs manufactured in Mexico. Mr. Wand stated that the drugs could be manufactured anywhere.

Mr. McAllister noted that this is a huge risk because there are many counterfeit drugs that are coming from Mexico distribution channels.

Mr. Wand stated that the Governors would probably need to get an exemption to the Federal Law to conduct any kind of study.

### **AGENDA ITEM 18 – Update on Controlled Substances Prescription Monitoring Program (CSPMP)**

President Van Hassel asked Mr. Wright to give a brief update on the Controlled Substances Prescription Monitoring Program.

Mr. Wright stated that the Government Technology Information Agency (GITA) has approved the Project Investment Justification (PIJ) for the computerized central database tracking system for the Controlled Substances Prescription Monitoring Program.

Mr. Wright stated that the requests for proposals will be sent out next week. Mr. Wright stated that the evaluation committee will evaluate the bids with a contract being awarded by 2/6/2008. Mr. Wright stated that he hopes to have the program running by June of 2008.

Mr. Wright stated that any one who prescribes or dispenses controlled substances must register.

Mr. Haiber asked if the program would cross state lines. Mr. Wright stated that the program does not cross state lines and does not partner with other state monitoring programs. Mr. Wright stated that non-resident pharmacies that ship controlled substances to Arizona patients would need to register.

### **AGENDA ITEM 19 – Update on Southwest Methamphetamine Initiative**

Richard Rosky, Coordinator for the Southwest Meth Initiative, was present to update the Board concerning the tracking of sales of pseudoephedrine at the retail setting.

Mr. Rosky stated that the laws have been enacted to limit the sale of pseudoephedrine at retail sites in Arizona. Mr. Rosky stated that individuals are still going to multiple stores to purchase pseudoephedrine to make meth.

Mr. Rosky stated that there are 42 separate city ordinances in Arizona concerning the sale of pseudoephedrine products. Mr. Rosky stated that the Meth Initiative Program along with the Maricopa County Meth Lab Task Force hope to implement and fund an electronic tracking and monitoring system for all retail pharmacy stores to track pseudoephedrine sales throughout Arizona.

Mr. Rosky stated that the computer hardware will be funded by a Federal Grant and the software is being offered free to the state by the Tennessee Meth Task Force. Mr. Rosky stated that all retail pharmacies will be asked to submit their pseudoephedrine sales electronically. Mr. Rosky stated that the program is voluntary and there will be no charge to the retailer.

Mr. Rosky stated that violators would be identified and data disseminated to agencies through out the state for further investigation.

## **AGENDA ITEM 20 – Overview of the Pharmacy Compounding Accreditation Board**

The following individuals were present to present an overview of the Pharmacy Compounding Accreditation Board: Ken Baker, John Musil, Mark Boesen, and David Nicoletti.

President Van Hassel opened the discussion by asking the representatives to discuss the Pharmacy Compounding Accreditation Board (PCAB).

Mr. Baker stated that the PCAB is an accreditation board that sets the standards for compounding. Mr. Baker stated that the accredited pharmacies meet all USP 797 and 795 standards.

Mr. Baker stated that if a pharmacy is accredited it tells the Board that an expert has surveyed the pharmacy and the pharmacy has met 797 and 795 standards. Mr. Baker stated that would allow the Compliance Officers to concentrate on other areas when they inspect the pharmacy.

Mr. Van Hassel asked if there is a list of PCAB certified pharmacies. Mr. Baker stated that there is a list of pharmacies on the PCAB website. Mr. Baker stated that there are two PCAB certified pharmacies in Arizona. Mr. Baker stated that Mr. Musil's pharmacy in Scottsdale and Mr. Nicoletti's pharmacy in Tucson are both PCAB certified.

Mr. Baker stated that the process requires the applicants to review their own pharmacies and then the pharmacy is reviewed by one or two surveyors to determine if the practice standards are met.

Mr. Dutcher asked if the pharmacy needs to apply for accreditation each year. Mr. Baker stated that after initial certification the site is visited every three years.

Dr. Smidt asked Mr. Baker how the PCAB describes commercially available products. Mr. Baker stated that the pharmacies define what constitutes a commercially available product. Mr. Baker stated that there must be a significant difference as recognized by the prescriber as a medication that is needed by the patient.

Mr. Haiber asked if the insurance payers recognized the accreditation as an added value. Mr. Musil stated that they are looking at the accreditation as a means to justify payments to pharmacies.

Mr. Dutcher asked the representatives if they are asking that the Board implement the PCAB standards. Mr. Baker stated that they are not a regulatory body, but a standard setting body. Mr. Baker stated that their standards are higher to help protect the patient.

Mr. Nicoletti stated that it would not cost the Board any money to require compounding pharmacies be certified. Mr. Nicoletti stated that if the pharmacy was certified then the Compliance Officer would know that the pharmacy has met the standards of the PCAB.

Mr. Van Hassel thanked the individuals for appearing and presenting an overview of the PCAB.

## **AGENDA ITEM 21 – CE Approval Request- Ken Mitchell**

President Van Hassel asked Mr. Wand to address this agenda item.

Mr. Wand stated that Mr. Mitchell is requesting CE approval for courses that he has taken while attending Naturopathic School. Mr. Wand stated that staff feels that this does not meet the substantive policy requirements and Mr. Mitchell has asked that the Board review his request.

Mr. McAllister stated that there are many ACPE-approved CE courses available. Mr. McAllister stated that if we approve courses for attending classes that this may open a door for more requests.

Mr. Van Hassel stated that if ACPE-approved courses are the accepted standard then he feels that there is no reason to approve this request.

Mr. McAllister stated that the purpose of CE is to enhance the practice of pharmacy and Mr. Mitchell is not taking classes that enhance his practice of pharmacy. Mr. McAllister stated that Mr. Mitchell's classes are the basis for a new career path in medicine and not pharmacy.

**On motion by Mr. McAllister and Mr. Haiber,** the Board denied Mr. Mitchell's CE request. There was one nay vote from Dr. Smidt.

## **AGENDA ITEM 22 – Consideration of Amending Consent Agreement Previously Accepted and Agreed to by John O' Neil – Case 06-0011-PHR**

President Van Hassel asked Mr. Wand to address this agenda item.

Mr. Wand stated that he has received a request from Mr. O'Neil's attorney requesting that Mr. O'Neil be allowed to make a cash contribution in lieu of performing community service hours. Mr. O'Neil was allowed to make cash contributions in Colorado to satisfy his community service hours.

Mr. Haiber asked Ms. Campbell if the Board has the option of accepting this request to change his Consent Agreement.

Ms. Campbell stated that it would require the Board to amend his consent agreement. Ms. Campbell stated that Mr. O'Neil would be paying a fine instead of performing the required community service hours.

**On motion by Dr. Sypherd and Mr. Dutcher,** the Board unanimously agreed to deny the request by Mr. O'Neil's attorney to amend his consent agreement to allow Mr. O'Neil to make cash contributions in lieu of performing the required community service hours.

**AGENDA ITEM 23 – Consideration of Amending Consent Agreement Previously Accepted and Agreed to by Thomas Branson – Case 07-0032-PHR**

Roger Morris, Legal Counsel for Mr. Branson, was present to answer questions from Board Members concerning the amendment request.

President Van Hassel opened the discussion by asking Mr. Morris to address Mr. Branson's request.

Mr. Morris stated that Mr. Branson entered into a consent agreement with the Board which stated that he could not work alone and another pharmacist was required to work with him. Mr. Morris stated that it is very difficult to find pharmacists willing to go to Ajo to work. Mr. Morris stated that if Mr. Branson is forced to continue paying an additional pharmacist he may have to close his store due to financial reasons. Mr. Morris stated that if he is forced to close the pharmacy the town will suffer because the next pharmacy is 75 miles away.

Mr. Morris stated that the proposal is to have a technician check and sign off on Mr. Branson's work and be held responsible if an error is made. Mr. Morris stated that Mr. Branson is willing to pay for a monthly inspection by a Board Compliance Officer.

Dr. Smidt asked if the real issue is that Mr. Branson is not able to find someone to work or is it the cost that he must pay to have the second pharmacist.

Mr. Morris replied that Mr. Branson cannot financially afford to continue to pay a second pharmacist. Mr. Morris stated that Mr. Branson could hire someone and not fill prescriptions himself.

Mr. Dutcher stated that he does not feel it is a technician's responsibility to check the work of a pharmacist. Mr. Dutcher suggested that it might be possible to have an intern assigned to the store and help check the prescriptions for errors.

Dr. Smidt asked if the town of Ajo would be willing to help the pharmacy since the town was the genesis of several of the complaints. Mr. Morris stated that the insurance plan that generated several of the complaints no longer has prescriptions filled at the pharmacy.

Mr. Wand asked Mr. Morris if Mr. Branson is experiencing any health issues. Mr. Morris stated that Mr. Branson has several health issues.

Mr. Wand asked Mr. Morris if there is a bed in the back of the pharmacy. Mr. Morris replied yes.

Mr. Wand asked Mr. Morris if Mr. Pillon is still the only pharmacist going to Ajo. Mr. Morris replied yes.

Mr. Wand stated that Mr. Branson and Mr. Pillon are working together because both pharmacists have signed consent agreements requiring them to work with another pharmacist. Mr. Wand stated that there have been no complaints against either pharmacist, since they have been working together.

Mr. Haiber stated that he feels that having a technician or intern be responsible for checking the pharmacist's work puts the Board at risk if a serious error occurs.

Mr. Morris replied that the pharmacist would be ultimately responsible if an error was made.

Mr. Morris stated that Mr. Branson's consent order expires in one year and that closing the store would not benefit the public.

Mr. Wand suggested that another possibility would be that Mr. Branson could have a camera and microphone installed and a pharmacist at any location could review each prescription filled.

Mr. Wand asked if there is an imminent need. Mr. Morris stated that there is an imminent need.

Mr. Wand suggested that if there is a need for action a teleconference could be held prior to the next meeting in January.

Dr. Smidt asked if Mr. Branson has any offers to buy his pharmacy. Mr. Morris stated that there are currently no offers on the table.

Mr. Morris stated that he will explore the various options and contact Mr. Wand if he feels a teleconference would be warranted before the next Board meeting.

#### **AGENDA ITEM 26 – Call to the Public**

President Van Hassel announced that interested parties have the opportunity at this time to address issues of concern to the Board; however the Board may not discuss or resolve any issues because the issues were not posted on the meeting agenda.

Mr. Morris came forth to express his concerns about the proposed unethical conduct rules related to Internet Prescriptions. Mr. Morris stated that the rule states that the pharmacist must make every attempt to verify an internet prescription is valid. Mr. Morris suggested that the Board may want to define what constitutes an attempt to verify a prescription is valid.

#### **AGENDA ITEM 27 – Discussion of Items to Be Place in a Future Meeting Agenda**

No Items were discussed.

#### **AGENDA ITEM 24 – Adjournment**

There being no further business to come before the Board, **on motion by Mr. Dutcher and Dr. Smidt**, the Board unanimously agreed to adjourn the meeting at 1:55 P.M.